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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,297	10/31/2003	Anatoly S. Weiser	6057-27400	1393

35690 7590 03/19/2010

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EXAMINER	
MONIKANG, GEORGE C	

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
03/19/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/698,297	WEISER, ANATOLY S.	
	Examiner	Art Unit	
	GEORGE C. MONIKANG	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 March 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *10-53* is/are pending in the application.

4a) Of the above claim(s) *23,24,26 and 43-53* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-22, 25, 27-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/4/2010 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 10-15, 20-22, 25, 28, 30-31, 34-36 & 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshizaki et al, US Patent 5870365, and further in view of Kamon, US Patent Pub. 20040141446 A1.

4. Re Claim 10, Yoshizaki et al discloses a method comprising: a device receiving incoming sound (*fig. 1; abstract: the input signal is recorded onto another medium*); the device storing data representative of the incoming sound in a buffer (*fig. 3; col. 4, lines 28-38: incoming sound is saved in the fifo before transferred to the medium*); in response to determining, at a first point in time, that the incoming sound satisfies an initiation criteria, the device: retrieving data from the buffer, wherein the data retrieved from the buffer is representative of the incoming sound received during an interval of time preceding the first point in time (*col. 2, lines 13-34: the Yoshizaki et al invention seeks to improve the recording system such that, when a first time initiates a recording, the low sound period before that start time is recorded as well the high period after the start time*); storing the data retrieved from the buffer on a memory medium initiating storage, on the memory medium, of data that is representative of incoming sound received after the first point in time (*col. 5, lines 6-20: sound recorded onto a recording medium; col. 2, lines 13-34: when a first time initiates a recording, the low sound period before that start time is recorded as well the high period after the start time*); and in response to determining that the received incoming sound satisfies a recording termination criteria at a second point in time subsequent to the first point in time, the device discontinuing storing data representative of incoming sound on the memory medium (*fig. 1; abstract: recording will eventually stop after transfer of audio data is complete. This could be read as a second point in time*); but fails to disclose wirelessly transmitting the data retrieved from the buffer, wirelessly transmitting data that is representative of incoming sound after the first time and discontinuing the wireless

transmission of the data that is representative of the incoming sound. Since the emphasis of the above limitation is the fact that the data is wirelessly transmitted, the Kamon reference is used to illustrate a recording system where the audio data is being recorded wirelessly from a remote location. Kamon discloses public terminals where music data could be bought and downloaded at the terminal into a medium such as a compact disc (*Kamon, paras 0058-0059*). Therefore, it would have been obvious to modify the Yoshizaki et al recording technique such that it could be used for recording audio data from remote locations as taught in Kamon et al (*Kamon, paras 0058-0059*) for the purpose of making the system more dynamic.

5. Re Claim 11, the combined teachings Yoshizaki et al and Kamon disclose the method of claim 10, wherein the step of storing comprises storing the sound in a FIFO (*Yoshizaki et al, fig. 3; col. 4, lines 28-38: incoming sound is saved in the fifo before transferred to the medium*).

Re Claim 12, the combined teachings Yoshizaki et al and Kamon disclose the method of claim 10, wherein the recording initiation criteria comprises a sound intensity level of the incoming sound exceeds a first threshold (*Yoshizaki et al, col. 9, lines 1-16: recording starts when sound passes a first threshold*).

Re Claim 13, the combined teachings Yoshizaki et al and Kamon disclose the method of claim 12, wherein the recording termination criteria a sound intensity level of the incoming sound being is below a second threshold (*Yoshizaki et al, fig. 1; abstract: recording will eventually stop after transfer of audio data is complete. This could be read*

as a second point in time where the sound level is lower because audio data to be transferred is complete).

Re Claim 14, the combined teachings Yoshizaki et al and Kamon disclose the method of claim 13, wherein the second threshold is lower than the first threshold (*Yoshizaki et al, fig. 1; abstract: recording will eventually stop after transfer of audio data is complete. This could be read as a second point in time where the sound level is lower because audio data to be transferred is complete*).

Re Claim 15, the combined teachings Yoshizaki et al and Kamon disclose the method of claim 13, but fail to explicitly disclose wherein the second threshold is the same as the first threshold. However, it is the designer's preference to set the second threshold level to be the same as the first threshold level for the purpose of having the standard threshold throughout operation of the system.

Re Claim 20, the combined teachings Yoshizaki et al and Kamon disclose the method of claim 10, but fails to explicitly disclose further comprising transmitting the data stored on the memory medium to another device. It is the designer's preference to transmit the data recorded in Yoshizaki et al and Kamon to another device using the method disclosed in Yoshizaki et al and Kamon for the purpose of recording audio for numerous users.

Claims 21-22, 25 have been analyzed and rejected according to claim 10.

6. Re Claim 28, Yoshizaki et al discloses a device, comprising: an input interface configured to receive input data representing sound (*fig. 1; abstract: the input signal is*

recorded onto another medium); a recording interface configured to facilitate recording data on a recording medium (*col. 5, lines 6-20: sound recorded onto a recording medium*); a processor and memory having stored thereon instructions executable by the device to cause the device to: an identify one or more detected sound segments and one or more effective silence segments within the-sound (*col. 2, lines 13-34: the Yoshizaki et al invention seeks to improve the recording system such that, when a first time initiates a recording, the low sound period/silent before that start time is recorded in such a manner that the absolute quite portion is not recorded while the low sound portion is recorded*); transfer data representing the one or more detected sound segments to the recording interface to be recorded on the recording medium (*col. 2, lines 13-34: the Yoshizaki et al invention seeks to improve the recording system such that, when a first time initiates a recording, the low sound period/silent before that start time is recorded in such a manner that the absolute quite portion is not recorded while the low sound portion is recorded and the portion of sound after the recording initiating start time/detected sound segment is recorded*); and transfer data representing one or more play-back periods to the recording interface to be recorded on the recording medium, wherein the one or more play-back periods are each within one of the one or more effective silence segments and immediately preceding one of the one or more detected sound segments (*col. 2, lines 13-34: the Yoshizaki et al invention seeks to improve the recording system such that, when a first time initiates a recording, the low sound period/silent before that start time is recorded in such a manner that the absolute quite portion is not recorded while the low sound portion is recorded*), wherein at least

one play-back period is shorter than the effective silence segment that it is within (*col. 2, lines 13-34: the Yoshizaki et al invention seeks to improve the recording system such that, when a first time initiates a recording, the low sound period/silent before that start time is recorded in such a manner that the absolute quite portion is not recorded while the low sound portion is recorded and the low sound portion is less in length than the overall low sound period/ silent mode*); wherein data representing portions of the one or more effective silence segments that are not part of the one or more play back periods are not transferred to the recording interface (*col. 2, lines 13-34: the Yoshizaki et al invention seeks to improve the recording system such that, when a first time initiates a recording, the low sound period/silent before that start time is recorded in such a manner that the absolute quite portion is not recorded while the low sound portion is recorded*); but fails to disclose a wireless transmission interface were the playback periods are wirelessly transmitted as suppose to being recorded as stated above. Since the emphasis of the above limitation is the fact that the data is wirelessly transmitted, the Kamon reference is used to illustrate a recording system where the audio data is being recorded wirelessly from a remote location. Kamon discloses public terminals where music data could be bought and downloaded at the terminal into a medium such as a compact disc (*Kamon, paras 0058-0059*). Therefore, it would have been obvious to modify the Yoshizaki et al recording technique such that it could be used for recording audio data from remote locations as taught in Kamon et al (*Kamon, paras 0058-0059*) for the purpose of making the system more dynamic.

7. Re Claim 30, the combined teachings Yoshizaki et al and Kamon disclose the method of claim 28, further comprising a buffer configured to store a portion of the input data that represents at least one of the one or more play-back periods, wherein the portion of the input data is stored by the buffer prior to the device transferring the data representing the at least one play-back period to the recording interface (*Yoshizaki et al, fig. 3; col. 4, lines 28-38: incoming sound is saved in the fifo before transferred to the medium*); but fails to disclose a wireless transmission interface were the playback periods are wirelessly transmitted. Since the emphasis of the above limitation is the fact that the data is wirelessly transmitted, the Kamon reference is used to illustrate a recording system where the audio data is being recorded wirelessly from a remote location. Kamon discloses public terminals where music data could be bought and downloaded at the terminal into a medium such as a compact disc (*Kamon, paras 0058-0059*). Therefore, it would have been obvious to modify the Yoshizaki et al recording technique such that it could be used for recording audio data from remote locations as taught in Kamon et al (*Kamon, paras 0058-0059*) for the purpose of making the system more dynamic.

Claim 31 has been analyzed and rejected according to claim 30.

Claim 34 has been analyzed and rejected according to claim 10.

Claim 35 has been analyzed and rejected according to claim 11.

Claim 36 has been analyzed and rejected according to claim 12.

Claims 41-42 have been analyzed and rejected according to claim 10.

1. Claims 16, 18-19, 27 & 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshizaki et al, US Patent 5870365 and Kamon, US Patent Pub. 20040141446 A1, as applied to claim 10 above, in view of Graumann, US Patent Pub. 20040264711 A1.

Re Claim 16, the combined teachings Yoshizaki et al and Kamon disclose the method of claim 10, but fails to disclose wherein the initiation criteria comprises a spectral power density of the sound exceeding a first threshold. However, Graumann discloses an apparatus where an input audio signal is analyzed to determine a power spectral density, wherein the power spectral density is compared with signals in a template to determine which frequencies in the incoming audio signal gets attenuated (*Graumann, abstract*). It would have been obvious to modify the Yoshizaki et al reference to determine a power spectral density of the incoming sound as taught in Graumann (*Graumann, abstract*) before wirelessly transferring the sound as taught in Kamon for the purpose of being able to determine which frequency does the incoming sound exceed the threshold level.

Re Claim 18, the combined teachings Yoshizaki et al and Kamon disclose the method of claim 10, but fail to disclose further comprising varying the length of the data retrieved from the buffer based on a user input. However, Graumann discloses determining a spectral density of an incoming sound, by so doing analyzing the incoming sound in subsets of frequency bands, therefore varying the lengths (*Graumann, abstract*). It would have been obvious to modify the Yoshizaki et al

reference to determine a power spectral density of the incoming sound by so doing analyzing the incoming sound in subsets of frequency bands, therefore varying the lengths as taught in Graumann (*Graumann, abstract*) before wirelessly transferring the sound as taught in Kamon for the purpose of being able to determine which frequency does the incoming sound exceed the threshold level.

Claim 19 has been analyzed and rejected according to claim 18.

Claim 27 has been analyzed and rejected according to claim 18.

Claims 37 has been analyzed and rejected according to claim 16.

2. Claims 17 & 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshizaki et al, US Patent 5870365 and Kamon, US Patent Pub. 20040141446 A1, as applied to claim 10 above, in view of Smith, US Patent Pub. 20020173864 A1.

Re Claim 17, the combined teachings Yoshizaki et al and Kamon disclose the method of claim 10, but fail to disclose wherein the recording initiation comprises at least one moving average of the sound intensity level of the incoming sound exceeding a first threshold. However, Smith discloses controller that estimates the moving average of an audio signal and compares with a desired sound level (*Smith, abstract*). It would have been obvious to modify the Yoshizaki et al reference to determine a moving average of the incoming sound as taught in Smith (*Smith, abstract*) for the purpose of smoothing out the performance of the system.

Claims 38 has been analyzed and rejected according to claim 17.

3. Claims 29, 32-33 & 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshizaki et al, US Patent 5870365, in view of Fiedler, US Patent 6804638 B2, and further in view of Kamon, US Patent Pub. 20040141446 A1.

4. Re Claim 32, Yoshizaki et al discloses an input interface coupled to an audio source and configured to generate input data representative of the sound waves (*fig. 1: 7; the delay receives signals from the input and transmits it to the signal processor 8*); a transmitter (*fig. 1: 7; the delay receives signals from the input and transmits it to the signal processor 8*); a processor (*fig. 1: 8*); and memory having stored thereon instructions executable by the processor (*col. 2, lines 13-34: the Yoshizaki et al invention seeks to improve the recording system such that, when a first time initiates a recording, the low sound period/silent before that start time is recorded in such a manner that the absolute quite portion is not recorded while the low sound portion is recorded*) to cause the sound recorder to: identify one or more detected sound segments and one or more effective silence segments within the sound waves (*col. 2, lines 13-34: the Yoshizaki et al invention seeks to improve the recording system such that, when a first time initiates a recording, the low sound period/silent before that start time is recorded in such a manner that the absolute quite portion is not recorded while the low sound portion is recorded*); transmit the one or more detected sound segments to a receiving device (*col. 2, lines 13-34: the Yoshizaki et al invention seeks to improve the recording system such that, when a first time initiates a recording, the low sound period/silent before that start time is recorded in such a manner that the absolute quite*

portion is not recorded while the low sound portion is recorded and the portion of sound after the recording initiating start time/detected sound segment is recorded); and transmit one or more play-back periods to the receiving device, wherein the one or more play-back periods are each within one of the one or more effective silence segments and immediately preceding one of the one or more detected sound segments (*col. 2, lines 13-34: the Yoshizaki et al invention seeks to improve the recording system such that, when a first time initiates a recording, the low sound period/silent before that start time is recorded in such a manner that the absolute quite portion is not recorded while the low sound portion is recorded*), wherein at least one play-back period is shorter than the effective silence segment that it is within; wherein portions of the one or more effective silence segments that are not part of the one or more play-back periods are not transmitted (*col. 2, lines 13-34: the Yoshizaki et al invention seeks to improve the recording system such that, when a first time initiates a recording, the low sound period/silent before that start time is recorded in such a manner that the absolute quite portion is not recorded while the low sound portion is recorded*); but fails to disclose a communication device, comprising: a microphone configured to receive sound waves. However, Fielder discloses a recording system that uses a microphone to pick-up signals that could be recorded onto a medium (*Fielder, fig.1, 2: MICROPHONE*). It would have been obvious to implement a microphone in the Yoshizaki et al system as done in the Fielder system (*Fielder, fig.1, 2: MICROPHONE*) for the purpose of recording sounds input through microphones. The Yoshizaki et al and Fielder references fail to disclose a wireless transmitter and a wireless communication device

such that the transmitted sound segments above are transmitted wirelessly. Since the emphasis of the above limitation is the fact that the data is wirelessly transmitted, the Kamon reference is used to illustrate a recording system where the audio data is being recorded wirelessly from a remote location. Kamon discloses public terminals where music data could be bought and downloaded at the terminal into a medium such as a compact disc (*Kamon, paras 0058-0059*). Therefore, it would have been obvious to modify the Yoshizaki et al recording technique such that it could be used for recording audio data from remote locations as taught in Kamon et al (*Kamon, paras 0058-0059*) for the purpose of making the system more dynamic.

Claims 29 & 39 has been analyzed and rejected according to claim 32.

Re Claim 33, the combined teachings of Yoshizaki et al, Fielder and Kamon disclose the wireless communication device of claim 32, wherein instructions are further executable to cause the wireless communication device to receive a user input of a desired value for at least one of the one or more playback periods; and set a duration of the at least one play-back period based on the desired value. Fiedler further discloses where a user sets a time interval of an audio data that is to be recorded (*Fiedler, col. 6, lines 33-41*). It would have been obvious to modify the Yoshizaki et al system such that in an alternate embodiment, a user can determine a time interval of sound that should be recorded as taught in Fiedler (*Fiedler, col. 6, lines 33-41*) before recording/ or wireless transmission as disclosed in Kamon for the purpose making the system more dynamic than other systems on the market.

Claim 40 has been analyzed and rejected according to claim 33.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE C. MONIKANG whose telephone number is (571)270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C Monikang/ 3/10/2010
Examiner, Art Unit 2614

/Vivian Chin/

Supervisory Patent Examiner, Art Unit 2614